

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**Lawrence E. Cuddy, Jr.,
Plaintiff,**

v.

**Danvers Savings Bank,
Defendant.**

Bankruptcy Appeal

Case No. 1:05-cv-10776-GAO

**EMERGENCY MOTION FOR STAY OF PROCEEDINGS
PENDING APPEAL**

The Appellant in the above-captioned Bankruptcy Appeal, Donald H. Adler, Esq., Thomas G. Nicholson, Esq. and the firm of Finneran & Nicholson, P.C. (collectively the "Counsel"), counsel to Lawrence E. Cuddy, Jr. (the "Cuddy"), brings this Emergency Motion for Stay of Proceedings Pending Appeal pursuant to Bankr. P. Rule 8005 because the Bankruptcy Court has denied Counsel a stay of the proceedings in the adversary proceeding in the United States Bankruptcy Court for the District of Massachusetts, Eastern Division, case number 04-1208, pending Counsel's appeal of the Bankruptcy Court's order denying Counsel's Motion to Withdraw Appearance entered on the docket on March 29, 2005. The stay is now necessitated on an emergency basis as the Plaintiff, Danvers Savings Bank (the "Bank") has scheduled a deposition of Cuddy for July 8, 2005 at 9:00 a.m.

Counsel timely filed a Notice of Appeal, Election of Appeal to the District Court and Motion for Leave to Appeal on April 8, 2005 and is before this Court on this matter pursuant to 28 U.S.C. § 158(a)(3) and Bankr. P. Rule 8001(b).

Pursuant to Bankruptcy Rule 8005, Counsel filed an Ex Parte Motion for Stay of Proceedings Pending Appeal with the Bankruptcy Court on May 17, 2005. The Bankruptcy Court granted the ex

parte relief and set the Motion for Stay for a hearing on June 8, 2005. After a hearing before Judge Hillman, the Bankruptcy Court denied the Motion for Stay. Counsel now respectfully requests that this Court stay all proceedings in the Adversary Proceeding including the deposition currently scheduled for July 8, 2005, pending Counsel's Appeal to this Court, which is currently pending determination on Counsel's Motion for Leave to Appeal.

In support of this Motion, Counsel respectfully submits its Memorandum in Support of Motion for Stay of Proceedings Pending Appeal and the Affidavit of Thomas G. Nicholson, Esquire.

WHEREFORE, Counsel respectfully requests that this Court enter an Order:

- (a) Allowing Counsel's Emergency Motion for Stay of Proceeding Pending Appeal; or in the alternative,
- (b) Setting an immediate hearing date prior to July 8, 2005 to determine the relief sought.

Dated: July 1, 2005

I hereby certify that a true copy of
the above document was served
upon the attorney of record for each
party by mail on 7/1/05

Thomas G. Nicholson
and email transmission

Respectfully submitted,
Finneran & Nicholson, P.C.

Thomas G. Nicholson

Thomas G. Nicholson, Esq. (BBO# 548472)

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Of Counsel

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